

SENATE BILL 633

C7

CONSTITUTIONAL AMENDMENT

11r2485
CF HB 384

By: **Senators Pipkin and Brinkley**

Introduced and read first time: February 4, 2011

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Gaming – Video Lottery Terminals – Repeal of Constitutional Amendment –**
3 **Changes to Statutory Provisions**

4 FOR the purpose of repealing Article XIX – Video Lottery Terminals of the Maryland
5 Constitution; specifying in statutory law that the primary purpose of the
6 operation of video lottery terminals is to raise revenue for certain public
7 educational goals; requiring in statutory law that a video lottery facility comply
8 with all applicable planning and zoning laws of the local jurisdiction; submitting
9 this amendment to the qualified voters of the State for their adoption or
10 rejection; and generally relating to video lottery terminals.

11 BY proposing a repeal of the Maryland Constitution
12 Article XIX – Video Lottery Terminals
13 Section 1 and the article designation “Article XIX – Video Lottery Terminals”

14 BY repealing and reenacting, with amendments,
15 Article – State Government
16 Section 9–1A–02 and 9–1A–11
17 Annotated Code of Maryland
18 (2009 Replacement Volume and 2010 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – State Government
21 Section 9–1A–03, 9–1A–05(a), and 9–1A–36(g) and (h)
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2010 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, (Three–fifths of all the members elected to each of the two Houses
26 concurring), That it be proposed that the Maryland Constitution read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



[Article XIX – Video Lottery Terminals]

1 [1.

2 (a) This article does not apply to:

3 (1) Lotteries conducted under Title 9, Subtitle 1 of the State
4 Government Article of the Annotated Code of Maryland;

5 (2) Wagering on horse racing conducted under Title 11 of the Business
6 Regulation Article of the Annotated Code of Maryland; or

7 (3) Gaming conducted under Title 12 or Title 13 of the Criminal Law
8 Article of the Annotated Code of Maryland.

9 (b) In this article, “video lottery operation license” means a license issued to
10 a person that allows players to operate video lottery terminals.

11 (c) (1) Except as provided in subsection (e) of this section, the State may
12 issue up to five video lottery operation licenses throughout the State for the primary
13 purpose of raising revenue for:
14

15 (i) Education for the children of the State in public schools,
16 prekindergarten through grade 12;

17 (ii) Public school construction and public school capital
18 improvements; and

19 (iii) Construction of capital projects at community colleges and
20 public senior higher education institutions.

21 (2) Except as provided in subsection (e) of this section, the State may
22 not authorize the operation of more than 15,000 video lottery terminals in the State.

23 (3) Except as provided in subsection (e) of this section, a video lottery
24 operation license only may be awarded for a video lottery facility in the following
25 locations:

26 (i) Anne Arundel County, within 2 miles of MD Route 295;

27 (ii) Cecil County, within 2 miles of Interstate 95;

28 (iii) Worcester County, within 1 mile of the intersection of Route
29 50 and Route 589;

30 (iv) On State property located within Rocky Gap State Park in
31 Allegany County; or

- 1 (v) Baltimore City, if the video lottery facility is:
- 2 1. Located:
- 3 A. In a nonresidential area;
- 4 B. Within one-half mile of Interstate 95;
- 5 C. Within one-half mile of MD Route 295; and
- 6 D. On property that is owned by Baltimore City on the
- 7 date on which the application for a video lottery operation license is submitted; and
- 8 2. Not adjacent to or within one-quarter mile of property
- 9 that is:
- 10 A. Zoned for residential use; and
- 11 B. Used for a residential dwelling on the date the
- 12 application for a video lottery operation license is submitted.
- 13 (4) Except as provided in subsection (e) of this section, the State may
- 14 not award more than one video lottery operation license in a single county or
- 15 Baltimore City.
- 16 (5) A video lottery facility shall comply with all applicable planning
- 17 and zoning laws of the local jurisdiction.
- 18 (d) Except as provided in subsection (e) of this section, on or after November
- 19 15, 2008, the General Assembly may not authorize any additional forms or expansion
- 20 of commercial gaming.
- 21 (e) The General Assembly may only authorize additional forms or expansion
- 22 of commercial gaming if approval is granted through a referendum, authorized by an
- 23 act of the General Assembly, in a general election by a majority of the qualified voters
- 24 in the State.
- 25 (f) The General Assembly may, from time to time, enact such laws not
- 26 inconsistent with this section, as may be necessary and proper to carry out its
- 27 provisions.]

28 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland

29 read as follows:

30 **Article – State Government**

1 9-1A-02.

2 (a) This subtitle is statewide and exclusive in its effect.

3 (b) (1) The Commission shall regulate the operation of video lottery
4 terminals in accordance with this subtitle.

5 (2) The Maryland State Lottery Agency shall provide assistance to the
6 Commission in the performance of the Commission's duties under this subtitle.

7 (c) (1) This subtitle authorizes the operation of video lottery terminals
8 owned or leased by the State that are connected to a central monitor and control
9 system owned or leased by the State that allows the Commission to monitor a video
10 lottery terminal.

11 (2) The Commission shall provide and operate a single central monitor
12 and control system into which all licensed video lottery terminals must be connected.

13 (3) The central monitor and control system shall be capable of:

14 (i) continuously monitoring, retrieving, and auditing the
15 operations, financial data, and program information of all video lottery terminals;

16 (ii) allowing the Commission to account for all money inserted
17 in and payouts made from any video lottery terminal;

18 (iii) disabling from operation or play any video lottery terminal
19 as the Commission deems necessary to carry out the provisions of this subtitle;

20 (iv) supporting and monitoring a progressive jackpot system
21 capable of operating one or more progressive jackpots; and

22 (v) providing any other function that the Commission considers
23 necessary.

24 (4) The central monitor and control system shall employ a widely
25 accepted gaming industry communications protocol to facilitate the ability of video
26 lottery terminal manufacturers to communicate with the statewide system.

27 (5) (i) Except as provided in subparagraph (ii) of this paragraph,
28 the Commission may not allow a video lottery operation licensee to have access to, or
29 obtain information from, the central monitor and control system.

30 (ii) Only if the access does not in any way affect the integrity or
31 security of the central monitor and control system, may the Commission allow a video
32 lottery operation licensee to have access to the central monitor and control system that
33 allows the licensee to obtain information pertinent to the legitimate operation of a
34 video lottery facility.

1 **(D) THE PRIMARY PURPOSE OF THE OPERATION OF VIDEO LOTTERY**
2 **TERMINALS IS TO RAISE REVENUE FOR:**

3 **(1) EDUCATION FOR THE CHILDREN OF THE STATE IN PUBLIC**
4 **SCHOOLS, PREKINDERGARTEN THROUGH GRADE 12;**

5 **(2) PUBLIC SCHOOL CONSTRUCTION AND PUBLIC SCHOOL**
6 **CAPITAL IMPROVEMENTS; AND**

7 **(3) CONSTRUCTION OF CAPITAL PROJECTS AT COMMUNITY**
8 **COLLEGES AND PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS.**

9 **[(d)] (E)** Only a person with a video lottery operation license issued under
10 this subtitle may offer a video lottery terminal for public use in the State under this
11 subtitle.

12 9-1A-03.

13 (a) Except as provided in subsection (b) of this section, any additional forms
14 or expansion of commercial gaming other than as expressly provided in this subtitle
15 are prohibited.

16 (b) This subtitle, including the authority provided to the Commission under
17 this subtitle, does not apply to:

18 (1) lotteries conducted under Subtitle 1 of this title;

19 (2) wagering on horse racing conducted under Title 11 of the Business
20 Regulation Article;

21 (3) the operation of slot machines as provided under Titles 12 and 13
22 of the Criminal Law Article; or

23 (4) other gaming conducted under Titles 12 and 13 of the Criminal
24 Law Article.

25 9-1A-05.

26 (a) The Video Lottery Facility Location Commission established under
27 § 9-1A-36 of this subtitle may not:

28 (1) award more than five video lottery operation licenses;

29 (2) award more than 15,000 video lottery terminals for operation at
30 video lottery facilities in the State; and

1 (3) subject to the requirements of § 9–1A–36(h) and (i) of this subtitle,
2 award more than 4,750 terminals for operation at any video lottery facility.

3 9–1A–11.

4 (a) Any video lottery operation licenses not issued or awarded for a location
5 authorized under this subtitle shall automatically revert to the State.

6 (b) (1) Except as provided in paragraph (2) of this subsection, a licensee
7 shall commence operation of video lottery terminals in a permanent facility at the
8 location for which the video lottery operation license has been awarded within 18
9 months after the license is awarded.

10 (2) (i) On a determination by the Commission that extenuating
11 circumstances exist that are beyond the control of an awardee and have prevented the
12 awardee from complying with the requirements of paragraph (1) of this subsection, the
13 Commission may allow the awardee an extension of 6 months to comply with the
14 requirements.

15 (ii) The Commission may not grant more than two extensions to
16 an awardee under this paragraph.

17 (3) If a video lottery operation awardee fails to comply with the
18 requirements of this subsection, the license awarded to the awardee shall be revoked
19 and shall automatically revert to the State.

20 (c) (1) Nothing in this subtitle may be construed to prohibit a video
21 lottery operation licensee that is issued a license from beginning video lottery terminal
22 operations in a temporary facility that meets the minimum requirements established
23 in regulations adopted by the State Lottery Commission.

24 (2) Notwithstanding the provisions of paragraph (1) of this subsection,
25 a video lottery operation licensee shall be operational in a permanent facility no later
26 than 30 months after the award of the video lottery operation license.

27 **(D) A VIDEO LOTTERY FACILITY SHALL COMPLY WITH ALL APPLICABLE**
28 **PLANNING AND ZONING LAWS OF THE LOCAL JURISDICTION.**

29 **[(d)] (E)** For a location in Allegany County, video lottery terminals may be
30 temporarily located in the Rocky Gap Lodge and Resort until a permanent facility is
31 constructed, subject to the requirements of subsection (b) of this section.

32 9–1A–36.

33 (g) The Video Lottery Facility Location Commission may not award more
34 than one video lottery facility operation license in a single county or Baltimore City.

1 (h) (1) In order to qualify for a video lottery operation license under this
2 section, a proposed video lottery facility shall be located in one of the following
3 counties:

4 (i) a location in Anne Arundel County, within 2 miles of MD
5 Route 295;

6 (ii) a location in Cecil County, within 2 miles of Interstate 95;

7 (iii) except as provided in § 9–1A–11(d) of this subtitle, a location
8 on State property associated with the Rocky Gap State Park in Allegany County that
9 shall be in a separate building that may be adjacent or connected to the Rocky Gap
10 Lodge and Golf Resort;

11 (iv) a location in Worcester County, within 1 mile of the
12 intersection of Route 50 and Route 589; or

13 (v) a location in Baltimore City that is:

14 1. located:

15 A. in a nonresidential area;

16 B. within one–half mile of Interstate 95;

17 C. within one–half mile of MD Route 295; and

18 D. on property that is owned by Baltimore City on the
19 date on which the application for a video lottery operation license is submitted; and

20 2. not adjacent to or within one–quarter mile of property
21 that is:

22 A. zoned for residential use; and

23 B. used for a residential dwelling on the date the
24 application for a video lottery operation license is submitted.

25 (2) Nothing in this subtitle may be construed to preempt the exclusive
26 authority of the Video Lottery Facility Location Commission to award video lottery
27 operation licenses in accordance with this subtitle.

28 (3) (i) With respect to a video lottery operation license awarded to
29 a location under paragraph (1)(iv) of this subsection, the holder of the video lottery
30 operation license or any other person with a direct or indirect legal or financial
31 interest in the Ocean Downs racetrack or video lottery facility may not:

1 1. build any type of hotel, motel, or other public lodging
2 accommodation on or within 10 miles of the property owned by the holder of the
3 license on which a video lottery facility is operated;

4 2. convert an existing facility on or within 10 miles of
5 the property described in item 1 of this subparagraph into any type of hotel, motel, or
6 other public lodging accommodation;

7 3. build or operate a conference center or convention
8 center, amusement park, amusement rides, arcade, or miniature golf course on or
9 within 10 miles of the property described in item 1 of this subparagraph; or

10 4. offer to patrons of the video lottery facility the playing
11 of live music, floor shows, dancing, dancing exhibitions, performances, or any other
12 form of live entertainment in or near the video lottery facility, provided that the holder
13 of the video lottery operation license for the location under paragraph (1)(iv) of this
14 subsection or another person with a direct or indirect legal or financial interest in the
15 Ocean Downs racetrack or the video lottery facility may allow:

16 A. live fireworks displays to be conducted on the
17 property; and

18 B. a single piano that is played by an individual.

19 (ii) The prohibitions under subparagraph (i) of this paragraph
20 apply to any subsequent holder of a video lottery operation license awarded under
21 paragraph (1)(iv) of this subsection.

22 SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly
23 determines that the amendment to the Maryland Constitution proposed by Section 1
24 of this Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of
25 the Maryland Constitution concerning local approval of constitutional amendments do
26 not apply.

27 SECTION 4. AND BE IT FURTHER ENACTED, That the amendment to the
28 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the
29 qualified voters of the State at the next general election to be held in November, 2012
30 for their adoption or rejection pursuant to Article XIV of the Maryland Constitution.
31 At that general election, the vote on this proposed amendment to the Constitution
32 shall be by ballot, and upon each ballot there shall be printed the words "For the
33 Constitutional Amendment" and "Against the Constitutional Amendment," as now
34 provided by law. Immediately after the election, all returns shall be made to the
35 Governor of the vote for and against the proposed amendment, as directed by Article
36 XIV of the Maryland Constitution, and further proceedings had in accordance with
37 Article XIV.

38 SECTION 5. AND BE IT FURTHER ENACTED, That, except for Sections 3 and
39 4 of this Act, this Act shall take effect July 1, 2011.